

IN THE United States District Court Western District of Pennsylvania

Michael Frost
Petitioner

vs.

Case No. 1:10-cv-00117-SPA

Equity, ET AL

Crawford Co. Ct. Common Pleas, ET AL

Commonwealth of Pennsylvania, ET AL

Erie Co. Ct. of Common Pleas, ET AL

D.O.C. Probation and Parole, ET AL

S.C.I.-Albion Erie Co. Regional Jail, ET AL
Respondents

REQUESTED

DISCOVERY

COUNSEL

HEARING

Restaining ORDER

Release ORDER

FRAMED

HABEAS CORPUS

Venue

WRIT OF MANDAMUS in 28 U.S.C. 2241(c)(3)-2243

WITH INJUNCTIONS

Jurisdiction

original, EXCLUSIVE SUBJECT MATTER JURISDICTION

- 1 ON Dec. 15th, ~~1999~~ THIS Detective MARK A. SWARTFAGER
T281 OF the P.S. Police Took The Petitioner From
His Home. And later served with a INVALID
warrant that didnot have any seal by signed

FILED

OCT 19 2010

CLERK U.S. DISTRICT COURT
WEST DISTRICT OF PENNSYLVANIA

by Amy L. Nicols. If she even signed it at all.

2. Which Detective MARK Swartfager Presented invalid criminal complaint that was not approved by the D.A. nor was it signed by the D.A.
3. Criminal complaint was not for Petitioner, for the Social Security Number belongs to some other unknown person.
4. By Belief the state attorney whom had upon information and belief had authorized said kidnapping and seizure thru these agencies and Defendants whom unlawfully restrained and has detained to present the Petitioner Lacking Probable cause and Jurisdiction since 1999.
5. Then upon Fraud and corruption, Treason (Violation of OATH) thru civil conspiracy with all named Agencies and Defendants created A Fraudulent civil and criminal Process to Hold Petitioner indefinitely under 198-1999 1999-1288 and 1998-1288 Lacking probable cause / Jurisdiction, Arrest, Arraignment, charges and information to present. By A invalid Process and Void Judgement.

6. And Petitioner contends that all of His constitutional Rights in the Bill of rights in the U.S.C. A, 1, 4, 5, 6, 8, 9, 11, 13, and 14th and 4th to the 14th were violated and His civil rights, Due Process, Equal protection, Double Jeopardy and Alienation from association from His Family were violated. Upon The Illegal Seizure and Kidnapping from Dec. 15th 1999 to Present Lacking Probable cause/Jurisdiction by these Agencies and Defendants as Required pursuant to Pa. Const. ART, 1st 8, U.S.C. A. 4th to 14th constituting an Illegal seizure, And the petitioner Has A Right to A restraining order and released, with an Injunction and order, INcluding cruel and unusual Punishment in The U.S.C. A. 8th and 14th. And to be compensated by The compensatory and punitive Damages By these Agencies and Defendants whom Acted under the color of Law \$1,500 A Day per agencies, Per individual, Severally and Jointly IN Their individual and official compacity.
7. AS no man is above the Law united states V. NIXON (1974) nor can they claim immunity or Executive Privilege when Done in Fraud and corruption. There Fore the petitioner Request This Honorable court to order the Crawford county courts of common Pleas to provide state court records IN CR-0000198-1999 and 1998-1288 and 1999-1288 to sustain The Petitioners claims and to Grant the Petitioner

Relief Requested and any other Relief This Honorable
Court Deems necessary and Appropriate.

U.S.C.A. 4, 5, 6, 9, to the 14th Rights

8. Also sentenced by Two Judges at the same
Time without going from one Court Room to the other,
when appeared in front of only one Judge
Gordon R. Miller P.J. commitment order not signed by
Judge, But by clerk of court which doesn't have the
Power to do so.

cc: United States District Court

Clerk of Court

P.O. Box 1820

Erie Pa. 16507

CR: Michael Frost

EG2433

Erie Co. Regional Jail

10245 Route 18

Albion Pa. 16425-0002

CR: Respectfully Submitted

Oct, 15, 2010



Michael Frost

IN THE UNITED STATES DISTRICT COURT WESTERN DISTRICT OF PENNSYLVANIA

PROOF OF SERVICE

Michael Frost
Petitioner

vs.

CASE NO. 1:10-CV-00117-SPB

EQUITY, ET AL
Crawford Co. Ct. Common Pleas, ET AL
Commonwealth of Pennsylvania, ET AL
Erie Co. Ct. of Common Pleas, ET AL
D.O.C., Probation and Parole, ET AL
Erie Co. Regional Jail, ET AL
Respondants

I, Michael Frost, Do hereby verify that on this Oct, 15, 2010
That a true and correct copy of the Petition was served
upon the following parties, VIA: First class MAIL

cc: The United States District Court
Western District of Pennsylvania
Office of the Clerk
P.O. Box 1820

Erie Pa. 16507

CR. Respectfully submitted

Michael Frost

Michael Frost EG2433

Erie Co. Regional Jail

10745 Route 18

Albion Pa. 16475-0002

TABLE OF CONTENTS

Civil Process No. 1:10-CV-00117-SPB

1. Proof of Service To The clerk for the prothonotary
2. Cover Sheet / List Defendants
3. COMPLAINT 5 Pg.
4. Declaration / Verification sworn statement
5. IN Forma Pauperis Form
6. notice of Appearance

EXHIBITS

1. Criminal complaint No. C1-0000198-1999 arrest warrant 2 Pg.
2. 18 U.S.C. § 1201 FL kidnapping, unlawful Restraint and Detention statute
3. 2 Page of 300B commitment order.

CR: Respectfully submitted

Oct, 15, 2010

Michael Frost

Michael Frost EG2433

Eric Co. Regional Jail

10745, Route 18

Albion Pa. 16475-0002

**COMMONWEALTH OF
PENNSYLVANIA**

COUNTY OF CRAWFORD

To any authorized person:

In the Commonwealth of Pennsylvania, you are commanded to
take into custody **DOB: 6/01/63 M WHITE**
(Name) **FROST, MICHAEL ALLAN**
45041 HARRISON ROAD
(Address) **SPARTANSBURG, PA 16434**

If the defendant be found in said Commonwealth, and bring the defendant
before us at **AMY L. NICOLS**

(Address) **300 S. 1ST STREET**

SPRINGVILLE, PA 16354

to answer the Commonwealth or **PA ST POLIC-CORRY**
(Political Subdivision)

upon the complaint or citation of **SWARTFAGER, MARK A**
charging the defendant with **18 \$3121 \$SA6 (9 COUNTES)**

and further to be dealt with according to law, and for such purposes this
shall be your sufficient warrant.

Witness the hand and official seal of the issuing authority on this

15 day of December, 99.

SEAL

Magisterial District No.: 30-306

Citation No.: FILED: 12/15/99

Docket No.: CR-0000198-99

OTN: H 051284-2

Amount needed to satisfy collateral: \$

Reason for warrant: **FELONY**

COPY : DEFENDANT

**RETURN WHERE DEFENDANT
IS FOUND**

By authority of this warrant

12/15, 99

☒ I took into custody the within named

MICHAEL ALLAN FROST

☐ He is now at liberty on bail posted

before _____

☐ in the _____

jail.

☐ before you for disposition.

☐ I accepted a guilty plea and

collected

\$ _____

for fine and costs.

☐ I accepted a not guilty plea and

collected \$ _____

for collateral.

☐ I accepted the fine and costs due

in the amount of

\$ _____

Mark A Swartfager

(Signature of Officer - Name & Title)

RETURN WHERE DEFENDANT

IS NOT FOUND

After diligent search, I cannot find

the within named defendant

SIGNATURE

NAME

TITLE

WARRANT OF ARREST

WARRANT CONTROL NO.:

0568266

DOCKET NUMBER:

CR-0000198-99

COMMONWEALTH

OF

PENNSYLVANIA

VS.

FROST, MICHAEL ALLAN

OFFENSE DATE 2/17/98

CHARGE

18 \$3121 \$SA6

I acknowledge that I am voluntarily
and knowingly pleading guilty. I paid
to the officer the fine and costs stated
in the warrant in the amount of

\$ _____

(Defendant's Signature)

I acknowledge that I am voluntarily
and knowingly pleading not guilty.
I paid to the officer the collateral for
my appearance at trial stated in the
warrant in the amount of

\$ _____

(Defendant's Signature)

Committee

Miles @

Costs @

Total

CRIMINAL COMPLAINT *copy*

Registration Number	30-3-06
Defendant Name	Amy L. NICOLS
Address	One Commonwealth Place Suite E1, Titusville, PA 16354
Telephone	(814) 827-6514
Docket No.	CR-0000198-99
Date Filed	DECEMBER 15, 1999
OTN	H 051284-2

COMMONWEALTH OF PENNSYLVANIA

VS.

DEFENDANT:

NAME and ADDRESS

Michael Allan FROST
45041 Harrison Road
Spartansburg, PA 16434

Defendant's Race/Ethnicity <input checked="" type="checkbox"/> White <input type="checkbox"/> Asian <input type="checkbox"/> Black <input type="checkbox"/> Hispanic <input type="checkbox"/> Native American <input type="checkbox"/> Unknown	Defendant's Sex <input type="checkbox"/> Female <input checked="" type="checkbox"/> Male	Defendant's D.O.B. 6/1/63	Defendant's Social Security Number 165565034	Defendant's SID
Defendant's A.K.A.	Defendant's Vehicle Information: PLATE NUMBER STATE REGISTRATION STICKER (MM/YY)		Defendant's Driver's License Number STATE PA 20698970	
Complaint/Incident Number C02-0882665	Complaint/Incident Number if other Participants			UCR/NIBRS Code

District Attorney's Office ☐ Approved ☐ Disapproved because:

(The district attorney may require that the complaint, arrest warrant affidavit, or both be approved by the attorney for the Commonwealth prior to filing. Pa.R.Cr.P. 107)

(Name of Attorney for Commonwealth - Please Print or Type)

(Signature of Attorney for Commonwealth)

(Date)

I, Tpr. Mark A. SWARTFAGER / 7281

(Name of Affiant - Please Print or Type)

of, THE PENNSYLVANIA STATE POLICE

TROOP E

CORY

(Officer Badge Number (ID))

(Identify Department or Agency Represented and Political Subdivision)

(Police Agency ORI Number)

(Originating Agency Code Number (OCA))

do hereby state: (check the appropriate box)

1. ☒ I accuse the above named defendant who lives at the address set forth above
☐ I accuse the defendant whose name is unknown to me but who is described as
☐ I accuse the defendant whose name and popular designation or nickname is unknown to me and whom I have therefore designated as John Doe
 with violating the penal laws of the Commonwealth of Pennsylvania at
45041 Harrison Road, Rome Township, and on the rural roadways leading to/from 45041 Harrison Road,
in CRAWFORD County on or about 01/01/98-08/23/99.
 Participants were: (if there were participants, place their names here, repeating the name of the above defendant)
Michael Allan FROST

2. The acts committed by the accused were:
 (Set forth a summary of the facts sufficient to advise the defendant of the nature of the offense charged. A citation to the statute allegedly violated, without more, is not sufficient, in a summary case; you must cite the specific section and subsection of the statute or ordinance allegedly violated.)

Refer to the following attached pages for each respective victim:

- Victim #1: A.D.F. (DOB: 10/02/90) Pages 2 through 10.
 Victim #2: L.A.F. (DOB: 08/18/91) Pages 11 through 15.
 Victim #3: B.A.F. (DOB: 09/30/92) Pages 16 through 21.
 Victim #4: B.M.P. (DOB: 06/30/99) Page 22.

(Victims are children and their full names and identities will be attached in a confidential envelope.)

DC-300B (PART II) Rev. 7/99

Write or Print Legibly

COURT COMMITMENT
CONTINUATION SHEET
STATE OR COUNTY CORRECTIONAL INSTITUTION
Commonwealth of Pennsylvania

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
BOX 598 CAMP HILL, PA. 17001-0598
Attn: Central Office Records

vs.
Frost, Michael A.

COMMITMENT NAME (LAST, FIRST, INITIAL, SUFFIX)

NOTE: Additional supply of this form available at above address

COURT NUMBER 1999-1288		OFFENSE TRACKING NUMBER (OTN) H051284-2	
MANDATORY SENTENCE:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	COUNTY REFERENCE #:	
BOOT CAMP RECOMMENDED	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
The above defendant after <input checked="" type="checkbox"/> Pleading guilty <input type="checkbox"/> Nolo contendere <input type="checkbox"/> Being found guilty <input type="checkbox"/> GBMI			
was on <u>May 19, 2000</u> , sentenced by Judge <u>Gordon R. Miller, P.J.</u>			
to a term of not less than <u>05</u> years, <u></u> months, <u></u> days nor more than <u>10</u> years, <u></u> months, <u></u> days, or <u></u> for the offense of			
<u>Involuntary Deviate Sexual Intercourse</u> (Section <u>3123</u> of the Crimes Code) or (other statute) <u></u>			
Fine: Amount \$ <u>100.00</u> Balance \$ <u>100.00</u>		Cost: Amount \$ <u></u> Balance \$ <u></u>	
		Restitution: Amount \$ <u></u> Balance \$ <u></u>	
CREDIT FOR TIME SERVED		EFFECTIVE DATE OF SENTENCE <u>May 19, 2000</u>	
THIS SENTENCE IS CONCURRENT WITH:			
THIS SENTENCE IS CONSECUTIVE TO: <u>to run consecutive to Count 21</u>			

COURT NUMBER 1998-1288		OFFENSE TRACKING NUMBER (OTN) H051284-2	
MANDATORY SENTENCE:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	COUNTY REFERENCE #:	
BOOT CAMP RECOMMENDED	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
The above defendant after <input checked="" type="checkbox"/> Pleading guilty <input type="checkbox"/> Nolo contendere <input type="checkbox"/> Being found guilty <input type="checkbox"/> GBMI			
was on <u>May 19, 2000</u> , sentenced by Judge <u>Anthony J. Vardaro, J.</u>			
to a term of not less than <u>05</u> years, <u></u> months, <u></u> days nor more than <u>10</u> years, <u></u> months, <u></u> days, or <u></u> for the offense of			
<u>Involuntry Deviate Sexual Intercourse</u> (Section <u>3123</u> of the Crimes Code) or (other statute) <u></u>			
Fine: Amount \$ <u>100.00</u> Balance \$ <u>100.00</u>		Cost: Amount \$ <u></u> Balance \$ <u></u>	
		Restitution: Amount \$ <u></u> Balance \$ <u></u>	
CREDIT FOR TIME SERVED		EFFECTIVE DATE OF SENTENCE <u>May 19, 2000</u>	
THIS SENTENCE IS CONCURRENT WITH:			
THIS SENTENCE IS CONSECUTIVE TO: <u>to run consecutive to Sent. at Ct. 51</u>			

(SEAL)

In witness to the above sentence(s) for offense(s) as well as those found on the reverse side of this document, I hereunto set my hand and seal of said court, this 24th day of May, 2000.

[Signature]
Authorized Signature

COURT NUMBER 1999-1288		OFFENSE TRACKING NUMBER (OTN) 0512842	
MANDATORY SENTENCE:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	COUNTY REFERENCE #:	
BOOT CAMP RECOMMENDED	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
The above defendant after	<input checked="" type="checkbox"/> Pleading guilty	<input type="checkbox"/> Nolo contendere	<input type="checkbox"/> Being found guilty
was on <u>May 19, 2000</u> , sentenced by Judge <u>Gordon R. Miller, P.J.</u> to a term of not less than _____ years, <u>12</u> months, _____ days nor more than _____ years, <u>30</u> months, _____ days, or _____ for the offense of <u>Endangering Welfare of Minors</u> (Section <u>4304</u> of the Crimes Code) or (other statute) _____			
Fine: Amount \$ <u>100.00</u> Balance \$ <u>100.00</u>	Cost: Amount \$ _____ Balance \$ _____	Restitution: Amount \$ _____ Balance \$ _____	
CREDIT FOR TIME SERVED		EFFECTIVE DATE OF SENTENCE <u>May 19, 2000</u>	
THIS SENTENCE IS CONCURRENT WITH:			
THIS SENTENCE IS CONSECUTIVE TO: <u>to run consecutive to Ct. 68</u>			
COURT NUMBER 1998-1288		OFFENSE TRACKING NUMBER (OTN) H0512842	
MANDATORY SENTENCE:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	COUNTY REFERENCE #:	
BOOT CAMP RECOMMENDED	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
The above defendant after	<input checked="" type="checkbox"/> Pleading guilty	<input type="checkbox"/> Nolo contendere	<input type="checkbox"/> Being found guilty
was on <u>May 19, 2000</u> , sentenced by Judge <u>Gordon R. Miller, P.J.</u> to a term of not less than _____ years, <u>12</u> months, _____ days nor more than _____ years, <u>30</u> months, _____ days, or _____ for the offense of <u>Endangering Welfare of Minors</u> (Section <u>4304</u> of the Crimes Code) or (other statute) _____			
Fine: Amount \$ <u>100.00</u> Balance \$ <u>100.00</u>	Cost: Amount \$ _____ Balance \$ _____	Restitution: Amount \$ _____ Balance \$ _____	
CREDIT FOR TIME SERVED		EFFECTIVE DATE OF SENTENCE <u>May 19, 2000</u>	
THIS SENTENCE IS CONCURRENT WITH: <u>to run-concurrent with with Court 82</u>			
THIS SENTENCE IS CONSECUTIVE TO:			
COURT NUMBER		OFFENSE TRACKING NUMBER (OTN)	
MANDATORY SENTENCE:	<input type="checkbox"/> Yes <input type="checkbox"/> No	COUNTY REFERENCE #:	
BOOT CAMP RECOMMENDED	<input type="checkbox"/> Yes <input type="checkbox"/> No		
The above defendant after	<input type="checkbox"/> Pleading guilty	<input type="checkbox"/> Nolo contendere	<input type="checkbox"/> Being found guilty
was on _____, sentenced by Judge _____ to a term of not less than _____ years, _____ months, _____ days nor more than _____ years, _____ months, _____ days, or _____ for the offense of _____ (Section _____ of the Crimes Code) or (other statute) _____			
Fine: Amount \$ _____ Balance \$ _____	Cost: Amount \$ _____ Balance \$ _____	Restitution: Amount \$ _____ Balance \$ _____	
CREDIT FOR TIME SERVED		EFFECTIVE DATE OF SENTENCE	
THIS SENTENCE IS CONCURRENT WITH:			
THIS SENTENCE IS CONSECUTIVE TO:			

E E 1 1 1

10

DC-300B (PART I)
Rev. 7/99

Type or Print Legibly

COURT COMMITMENT
STATE OR COUNTY CORRECTIONAL INSTITUTION
Commonwealth of Pennsylvania
vs.COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
BOX 598 CAMP HILL, PA. 17001-0598
Attn: Central Office Records

NOTE: Additional supply of this form available at above address

Frost, Michael A.
COMMITMENT NAME (LAST, FIRST, INITIAL, SUFFIX)☐ DC-300B (PART II) attached

SEX <input type="checkbox"/> F <input checked="" type="checkbox"/> M	Date of Birth 06-01-1963	SID 150-61-15-4	OTN H051284-2	COURT OF INITIAL JURISDICTION <input type="checkbox"/>	COMMON PLEAS <input checked="" type="checkbox"/>
COMMITTING COUNTY Crawford			COURT NUMBER 1999-1288	DATE - TERM	
MANDATORY SENTENCE <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		COUNTY REFERENCE #:			
BOOT CAMP RECOMMENDED <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					
The above defendant after <input checked="" type="checkbox"/> Pleading guilty		<input type="checkbox"/> Nolo contendre		<input type="checkbox"/> Being found guilty <input type="checkbox"/> GBMI	

was on May 19, 2000, sentenced by Judge Gordon R. Miller
to a term of not less than 05 years, months, days nor more than 10 years, months,
 days, or Involuntary Deviate Sexual Intercourse for the offense of
(Section 3123 of the
Crimes Code) or (other statute) . It is further ordered that the
said defendant be delivered by the proper authority to and treated as the law directs at the State
facility located at Pittsburgh.

Fine:	Cost:	Restitution:
Amount \$ <u>100.00</u>	Amount \$ <u>309.00</u>	Amount \$ <u></u>
Balance \$ <u>100.00</u>	Balance \$ <u>309.00</u>	Balance \$ <u></u>

CREDIT FOR TIME SERVED (EXPLANATION OF CREDIT COMPUTATION ON REVERSE SIDE)	EFFECTIVE DATE OF SENTENCE May 19, 2000
--	--

THIS SENTENCE IS CONCURRENT WITH:

THIS SENTENCE IS CONSECUTIVE TO:

PROSECUTING ATTORNEY	Paula DiGiacomo, Esq.
DEFENSE ATTORNEY	M. Dan Mason, Esq.
COURT REPORTER	Walter Podurgiel

DISPOSITION ON NON-INCARCERATION OFFENSE(S)

(THIS BLOCK NOT TO BE USED FOR INCARCERATION OFFENSE)

(SEAL)

In witness, whereof I have hereunto set my hand and seal
of said court, this 24th day of May,
2000

AUTHORIZED SIGNATURE

WESTLAW COMPUTER ASSISTED LEGAL RESEARCH

WESTLAW supplements your legal research in many ways. WESTLAW allows you to

- update your research with the most current information
- expand your library with additional resources
- retrieve current, comprehensive history citing references to a case with KeyCite

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§ 1201. Kidnapping

(a) Whoever unlawfully seizes, confines, inveigles, decoys, kidnaps, abducts, or carries away and holds for ransom or reward or otherwise any person, except in the case of a minor by the parent thereof, when—

- (1) the person is willfully transported in interstate or foreign commerce, regardless of whether the person was alive when transported across a State boundary if the person was alive when the transportation began;
 - (2) any such act against the person is done within the special maritime and territorial jurisdiction of the United States;
 - (3) any such act against the person is done within the special aircraft jurisdiction of the United States as defined in section 46501 of title 49;
 - (4) the person is a foreign official, an internationally protected person, or an official guest as those terms are defined in section 1116(b) of this title; or
 - (5) the person is among those officers and employees described in section 1114 of this title and any such act against the person is done while the person is engaged in, or on account of, the performance of official duties;
- shall be punished by imprisonment for any term of years or for life and, if the death of any person results, shall be punished by death or life imprisonment.
- (b) With respect to subsection (a) (1), above, the failure to release the victim within twenty-four hours after he shall have been unlawfully seized, confined, inveigled, decoyed, kidnapped, abducted, or carried away shall create a rebuttable presumption that such person

has been transported to interstate or foreign commerce. Notwithstanding the preceding sentence, the fact that the presumption under this section has not yet taken effect does not preclude a Federal investigation of a possible violation of this section before the 24-hour period has ended.

(c) If two or more persons conspire to violate this section and one or more of such persons do any overt act to effect the object of the conspiracy, each shall be punished by imprisonment for any term of years or for life.

(d) Whoever attempts to violate subsection (a) shall be punished by imprisonment for not more than twenty years.

(e) If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States. As used in this subsection, the United States includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 46501(2) of title 49. For purposes of this subsection, the term "national of the United States" has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

(f) In the course of enforcement of subsection (a) (4) and any other sections prohibiting a conspiracy or attempt to violate subsection (a) (4), the Attorney General may request assistance from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary notwithstanding.

(g) Special rule for certain offenses involving children.—**(1) To whom applicable.—If—**

(A) the victim of an offense under this section has not attained the age of eighteen years; and

(B) the offender—

(i) has attained such age; and

(ii) is not—

- (I) a parent;
- (II) a grandparent;
- (III) a brother;
- (IV) a sister;
- (V) an aunt;
- (VI) an uncle; or

(VII) an individual having legal custody of the victim;

the sentence under this section for such offense shall be subject to paragraph (2) of this subsection.

(2) **Guidelines.**—The United States Sentencing Commission is directed to amend the existing guidelines for the offense of "kidnapping, abduction, or unlawful restraint," by including the following additional specific offense characteristics: If the victim was intentionally maltreated (i.e., denied either food or medical care) to a life-threatening degree, increase by 4 levels; if the victim was sexually exploited (i.e., abused, used involuntarily for pornographic purposes) increase by 3 levels; if the victim was placed in the care or custody of another person who does not have a legal right to such care or custody of the child either in exchange for money or other consideration, increase by 3 levels; if the defendant allowed the child to be subjected to any of the conduct specified in this section by another person, then increase by 2 levels.

(h) As used in this section, the term "parent" does not include a person whose parental rights with respect to the victim of an offense under this section have been terminated by a final court order. (June 25, 1948, c. 645, 62 Stat. 760; Aug. 6, 1956, c. 971, 70 Stat. 1043; Oct. 24, 1972, Pub.L. 92-539, Title II, § 201, 86 Stat. 1072; Oct. 8, 1976, Pub.L. 94-467, § 4, 90 Stat. 1998; Nov. 9, 1977, Pub.L. 95-163, § 17(b)(1), 91 Stat. 1286; Oct. 24, 1978, Pub.L. 95-504, § 2(b), 92 Stat. 1705; Oct. 12, 1984, Pub.L. 98-473, Title II, § 1007, 98 Stat. 2139; Nov. 10, 1986, Pub.L. 99-546, §§ 36, 37(b), 100 Stat. 3599; Nov. 29, 1990, Pub.L. 101-647, Title IV, § 401, Title XXXV, § 3538, 104 Stat. 4819, 4925; July 5, 1994, Pub.L. 103-272, § 5(e)(2), (8), 108 Stat. 1373, 1374; Sept. 13, 1994, Pub.L. 103-322, Title VI, § 60003(a)(6), Title XXXII, §§ 320903(b), 320924, Title XXXIII, § 330021, 108 Stat. 1969, 2124, 2131, 2150; Apr. 24, 1996, Pub.L. 104-132, Title VII, § 721(f), 110 Stat. 1299; Pub.L. 105-314, Title VII, § 702, Oct. 30, 1998, 112 Stat. 2987.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports
1948 Acts. Based on Title 18, U.S.C., 1940 ed., §§ 408a, 408c (June 22, 1932, c. 271, §§ 1, 3, 47 Stat. 326; May 18, 1934, c. 301, 48 Stat. 781, 782.)

Section consolidates sections 408a and 408c of said Title 18, U.S.C., 1940 ed. Reference to persons aiding, abetting or causing was omitted as unnecessary because such persons are made principals by section 22 of this title.

Words "upon conviction" were omitted as surplusage, because punishment can-

not be imposed until a conviction is secured.

Direction as to confinement "in the penitentiary" was omitted because of section 4082 of this title which commits all prisoners to the custody of the Attorney General. (See reviser's note under section 1 of this title.)

The phrase "for any term of years or for life," was substituted for the words "for such term of years, as the court in its discretion shall determine" which appeared in said section 408a of Title 18, U.S.C., 1940 ed. This change was made

in order to remove all doubt as to whether "term of years" includes life imprisonment.

Minor changes were made in phraseology.

1936 Acts. Senate Report No. 2820, see 1956 U.S. Code Cong. and Adm. News, p. 4373.

1972 Acts. Senate Report No. 92-1105 and House Conference Report No. 92-1485, see 1972 U.S. Code Cong. and Adm. News, p. 4316.

1976 Acts. House Report No. 94-1614, see 1976 U.S. Code Cong. and Adm. News, p. 4480.

1977 Acts. House Report Nos. 95-301, 95-14, and 95-15, and House Conference Report No. 95-773, see 1977 U.S. Code Cong. and Adm. News, p. 3383.

1978 Acts. House Report No. 95-1211 and House Conference Report No. 95-1779, see 1978 U.S. Code Cong. and Adm. News, p. 3737.

1984 Acts. House Report No. 98-1030 and House Conference Report No. 98-1159, see 1984 U.S. Code Cong. and Adm. News, p. 3182.

1986 Acts. House Report No. 99-797, see 1986 U.S. Code Cong. and Adm. News, p. 6138.

1990 Acts. House Report Nos. 101-681(Parts I and II) and 101-736, Senate Report No. 101-460, and Statement by President, see 1990 U.S. Code Cong. and Adm. News, p. 6472.

1994 Acts. House Report No. 103-180, see 1994 U.S. Code Cong. and Adm. News, p. 818.

House Report Nos. 103-324 and 103-489, and House Conference Report No. 103-711, see 1994 U.S. Code Cong. and Adm. News, p. 1801.

1996 Acts. Senate Report No. 104-179 and House Conference Report No. 104-518, see 1996 U.S. Code Cong. and Adm. News, p. 924.

Amendments

1998 Amendments. Subsec. (a)(1). Pub.L. 105-314, § 702(a), inserted ", regardless of whether the person was alive when transported across a State boundary if the person was alive when the transportation began", before the semicolon.

Subsec. (a)(5). Pub.L. 105-314, § 702(b), struck "designated" and inserted "described".

Subsec. (b). Pub.L. 105-314, § 702(c), added "Notwithstanding the preceding sentence, the fact that the presumption under this section has not yet taken effect does not preclude a Federal investigation of a possible violation of this section before the 24-hour period has ended."

1996 Amendments. Subsec. (e). Pub.L. 104-132, § 721(f), added "For purposes of this subsection, the term 'nationality of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))." following "section 46501(2) of title 49," and substituted "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States." for "If the victim of an offense under subsection (a) is an internationally protected person, the United States may exercise jurisdiction over the offense if the offender is present within the United States, irrespective of the place where the offense was committed or the nationality of the victim or the alleged offender."

1994 Amendments. Heading. Pub.L. 103-322, § 330021(1), substituted "Kidnapping" for "Kidnaping" as the section heading.

Subsec. (a)(3). Pub.L. 103-322, § 5(e)(8), substituted "section 46501 of title 49" for "section 101(38) of the Federal Aviation Act of 1958".

Subsec. (a). Pub.L. 103-322, § 60003(a)(6), inserted in the provisions following par. (5) the phrase "and, if the death of any person results, shall be punished by death or life imprisonment".

Subsec. (b). Pub.L. 103-322, § 330021(2), substituted "Kidnaped" for "kidnaped".

Subsec. (d). Pub.L. 103-322, § 320903(b), substituted "subsection (a)" for "subsection (a)(4) or (a)(5)".

Subsec. (e). Pub.L. 103-272, § 5(e)(2), substituted "section 46501(2) of title 49" for "section 101(38) of the Federal Aviation Act of 1958".